IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

FIRST APPEAL NO. 1010 OF 2004

UTI Bank Ltd. ... Appellant

v/s

Smt. Manorama Heerachand Jain ... Respondent

Shri Roshib Shah with Shri Prakash Shinde i/by Dhruva & Co. for the appellant.

Shri H. C. Mehta i/by Mehta & Co. for the respondent.

CORAM: P.V. KAKADE, J.

DATED: 14TH OCT., 2004.

P.C.:

1. Heard learned counsel for both parties. Perused the record.

2. Rule. Rule made returnable forthwith.

3. The plaintiff had filed the suit against the defendant bank for recovery of the amount of Rs.18,666/- together with interest at the rate of 18% p.a. Plaintiff's case was to the effect that the plaintiff had invested with CRB Capital Market Ltd. a sum of

Rs.16,000/- and in repayment thereof, the demand draft was purchased by the CRB Capital Market Ltd., and it was handed over to the representative of the plaintiff Mr. Nirmal Pahadia and when he sent it to the plaintiff at his place, it was lost in the transit. Thereafter there was correspondence between the parties. The defendant bank denied the liability of the claim and therefore the suit for recovery of the said amount was filed.

The learned Trial Judge settled the issues and adjudicated the dispute on merits. The defendant failed to lead any other evidence except filing written statement and the learned Trial Judge came to the conclusion that the suit deserves to be decreed and it was held that the contention of the defendant that there was delay, was negatived. Hence the appeal.

4. After perusal of the pleadings of both parties alongwith the contents of the judgment, I do not see any reason why the reasoning adopted and findings recorded by the learned Trial Judge should be disturbed as there is absolutely no evidence led by the defendant in support of his contention and the fact remains that the suit claim is legally and validly proved as per law for which purpose the decree came to be passed.

In the result, there is no merit in the appeal and it stands dismissed in limine with no order as to costs.

Consequently, the civil application also stands dismissed with no order as to costs.

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